

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

Harley-Davidson)
Motor Company Group, LLC,)
)
Harley-Davidson)
Motor Company Operations, Inc.,)
)
and)
)
Harley-Davidson)
Motor Company, Inc.,)
)
all three doing business)
under the trading name of)
“Harley Davidson Motor Company,”)
)
Applicants,)
)
v.)
)
S&S Cycle, Inc.,)
)
Respondent.)

APPLICATION TO CONFIRM ARBITRATION AWARD

Pursuant to, *inter alia*, the Federal Arbitration Act, Title 9 of the United States Code §§ 1 *et seq.*, the three entities (1) Harley-Davidson Motor Company Group, LLC, formerly known as Harley-Davidson Motor Company Group, Inc., (2) Harley-Davidson Motor Company Operations, Inc., and (3) Harley-Davidson Motor Company, Inc., (collectively “Harley-Davidson Motor Company”) apply to confirm an award in arbitration as follows.

I. Identification of the Parties

1. The identified Harley-Davidson Motor Company companies trade as Harley Davidson Motor Company and are all domestic entities of the State of Wisconsin, with principal offices at 3700 West Juneau Avenue, Milwaukee, Wisconsin 53208.

2. S&S Cycle, Inc. ("S&S Cycle") is a corporation of the State of Wisconsin, with a principal office at 14025 County Highway G, Viola, Wisconsin 54664.

II. Statement of Jurisdiction and Venue

3. Subject matter jurisdiction in this Court is proper, among other grounds, pursuant to Title 35 of the United States Code, §§ 281 and 294, Title 28 of the United States Code, § 1338, and Title 9 of the United States Code, § 9, in that a case or controversy between the parties exists as to allegations related to Title 35 and these allegations have been arbitrated between the parties. This Court has supplemental jurisdiction over Harley-Davidson's other claims under 28 U.S.C. § 1391.

4. Venue in this Court is proper pursuant to 9 U.S.C. § 9. Venue in this Court is also proper pursuant to 28 U.S.C. § 1400 in that S&S Cycle resides within this District pursuant to 28 U.S.C. § 1391(d).

5. Personal jurisdiction in this Court is proper pursuant to 9 U.S.C. § 9, which provides this Court personal jurisdiction over the adverse party S&S Cycle, upon service of notice of this application. Personal jurisdiction in this Court is also proper pursuant to Federal Rule of Civil Procedure 4(k)(A) because S&S Cycle is subject to the jurisdiction of a court of general jurisdiction in the State of Wisconsin where this Court is located.

III. Statement of Facts upon Which Relief is Requested

6. S&S Cycle and Harley-Davidson Motor Company entered into an agreement for confidential arbitration of disputes.

7. Pursuant to the arbitration agreement, the parties arbitrated a dispute.

8. Pursuant to the arbitration agreement and the arbitration of the dispute by the parties, the arbitrator made an award, including an award to Harley-Davidson Motor Company that it does not infringe S&S U.S. Patent No. 6,557,510.

9. The award of the arbitrator may be confirmed in any court having proper jurisdiction.

WHEREFORE, Harley-Davidson Motor Company applies to confirm the award in favor of Harley-Davidson, *i.e.*, that Harley-Davidson Motor Company does not infringe S&S U.S. Patent No. 6,557,510.

s/ Charles W. Shifley
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Application for Admission
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